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can get there, and I will work with the Senator to make that happen.

Mr. WELLSTONE. Mr. President, I note my colleague from Texas is in the Chamber. I will only take 1 more minute.

I thank the Senator from Idaho. I take his remarks as being very sincere. Again, the reason I have to do this, I say to my colleague, is because I went through this for 3 weeks prior to Thanksgiving. I came to the Senate Chamber 4, 5 times and never could get approval. The hold was anonymous.

Last week, I tried to get approval, and I have tried to get approval since. It is out there. Everybody knows what the bill is. We have been working on this a long time. There is strong bipartisan support for the bill.

I thank my colleague. I hope we can work it out. In the meantime, before we work it out, I want all of my good friends on the other side to know my hold is not anonymous. I have a hold on all their resolutions, amendments, and bills unless they are emergency.

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

AMENDMENT NO. 2196

(Purpose: To ensure that returns on investment are earned prior to any reduction in taxes or increase in benefits.)

Mr. GRAMM. Mr. President, I call up amendment 2196. It is a short amendment, and I would like it read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2196:

On page 2 of the amendment, insert before line 1 the following:

''SEC. 2. Notwithstanding any other provision of this Act, any reduction in tax or increase in benefits shall take effect only to the degree that the Secretary of the Treasury finds that the actual earnings of the Railroad Retirement Investment Trust Fund are sufficient to fund them.''.

Mr. GRAMM. Mr. President, we have before us a bill that 74 Members have cosponsored. It is clear from the previous vote where the votes are on this bill. I remind my colleagues that Senator DOMENICI offered an amendment to strike a provision of the bill that was not in any bill that anybody cosponsored, and it was literally a provision that was written into the bill that orders the Office of Management and Budget, which is the budget scoring arm of the executive branch, and the Congressional Budget Office, which is the budget scoring arm of the legislative branch of Government, to falsify the budget by not counting $15 billion that is being taken out of the Treasury.

This is an extraordinary provision. It basically ordered both budgeting arms—the budgeting arm of the executive branch of Government and the budgeting arm of the legislative branch of Government—to simply look the other way and not count $15 billion being taken out of the Treasury.

Senator DOMENICI, with the support of the chairman of the Budget Committee, offered an amendment to strike that language so at least we could have honest bookkeeping. Only 40 Members of the Senate voted for honest bookkeeping. It is clear this railroad retirement bill is wired.

What I wanted to do was to offer an amendment to achieve everything proponents of the bill claim they want to do but to do it in a responsible manner. I don't know where this amendment is going. I expect it is going to get relatively few votes. However, I feel obligated to offer the amendment and people can do what they want to do with it.

Let me try to define the problem. If you read what people are saying in the paper and you talk to all these very nice people in the hallways who are lobbying for this bill, they say: Look, we have over $15 billion in our trust fund. It is our money. It is invested in Government bonds. We don't think it is a good investment—I sure agree with them there. They claim they want to take the money and invest it. Then with the higher interest rates that they can earn, they want to lower taxes and increase benefits.

Now, there is a big problem here. If you look at the actual estimates done by the railroad retirement board, you find under any of the three economic scenarios that the railroad retirement trust fund actuaries look at, this proposal does a lot more than simply invest the money. In fact, as I pointed out on many occasions, what this bill does, in essence, is, over a 17-year period, it literally takes $15 billion of capital out of the trust fund. This chart shows—and this is based on the Railroad Retirement Board's data; this is not my data—under current law the trust fund would build up along the black line entitled ''Trust Fund Under Current Law.''

Let me remind my colleagues that railroad retirement is not fully funded. If we had ERISA laws applied to railroad retirement where you had to have a trust fund sufficient to pay benefits, ERISA would shut railroad retirement down today. This is a program that has no actuarial solvency whatever and it is currently receiving huge Federal taxpayer subsidies today and has always received Federal subsidies.

Basically what is going on, this is what the trust fund balance looks like under current law. Proponents of this bill say it doesn't make sense to invest this in Government bonds; let us invest it in stocks and bonds. We will have more money; we can have a better, more secure retirement program. I agree with that. I am supportive of letting them invest the money. The problem is, that is a smokescreen.

What they are really doing, if you look at what happens to the trust fund before any money is invested, before one single penny is invested, they cut the amount of money the railroads are putting into retirement from 16.1 percent of payroll to 14.75 percent, and it falls to 14.2 percent and then to 13.1 percent. They also lower the retirement age from 62 to 60. At the same time we are raising the retirement age for Social Security, they lower the number of years to be vested from 10 to 5 and they raise benefits. The net result is, even though they assume they will earn 8 percent in real terms, whereas they are only getting 1 percent in real terms from Government bonds the way they are calculating it, even with as high a rate of return, what happens to the trust fund under this bill? What happens to the trust fund is, it goes down because not only are we paying out every penny of earnings from the higher rate of return but we are also paying out principal.

Why doesn't it go broke? The reason it doesn't go broke is, in 2021, the trust fund is now down to about a third of what it would be under current law because you have added all the new benefits. You reduce the amount of money going into the fund so even though you hope to earn a much higher rate of return, you expect all the return and two-thirds of the trust fund.

What happens in 2021 that keeps the system from going bankrupt? The way the bill is written, at that point, the payroll tax, which is down to 13.1 percent of payroll, skyrockets. It goes from 13.1 percent up to 22.1 percent and it does that all in a span of some 5 years.

I ask my colleagues the following question: If railroads are saying they cannot operate profitably while we are putting 16.1 percent of payroll into this retirement program—and remember, they have three retirees for every worker; Social Security has three workers for every retiree; this program is nine times as financially vulnerable as Social Security—if they can't afford to pay 16.1 percent today and they are urging us to let them cut that to 13.1 percent, how can they come in 2025 and afford to pay 22.1 percent of payroll, which is what their numbers require?

Does any Member here not believe that come 2019 the railroads are going to come to Congress and say, we would be required simply to maintain the trust fund at roughly one-fourth of what it would have been without this law, already four-fifths of the trust fund would be good? They are going to run to Congress in 18 years and say, we can't possibly pay a 22.1-percent payroll tax and remain in business. So you are going to either have to have the taxpayer come in and bail out this fund or you are going to have every railroad in America going broke.

One question that is never answered is, if they can't afford to pay 16.1 percent today, how are they going to afford paying 22.1 percent in 25 years? The point is, they don't ever intend to pay that amount. They are, in essence, asking us, despite all the rhetoric to the contrary, to let them take four-fifths of the trust fund over the next 25 years and divide it up with retirees and then have the Federal Government guarantee the fund so 25 years from now we have one-fourth of the trust fund to pay benefits we have today, and the railroads, which cannot pay 16.1 percent, would be paying 22.1 percent then.

Now, they are going to argue the system would be solvent, they can pay the benefits. But they can only do that with a 22.1-percent payroll tax. Nobody that I know believes that is a tax they can pay. Anyone who looks at this realizes if we adopt this bill, 20 years from now we won't be here, other people will be here, but the railroads will be saying, you are going to have to come and do something because we can't pay these taxes.

Under the best of economic circumstances—and this is data from the railroad retirement board—under the best of circumstances, the bill before the Congress will deplete 53 percent of the trust fund by 2026. Under a more restricted and a more normal economic circumstance, it will deplete 75 percent of the trust fund. And under a pessimistic economic scenario it will bankrupt the trust fund in 20 years. These are not my numbers. These are the numbers of the actuaries of the railroad retirement trust fund.

Now, I understand people want to pass this bill, so I put together an amendment which lets the railroads and the unions do what they want to do, which is take $15 billion out of the trust fund right now and invest it. That will become a private trust fund and they will have it in stocks and bonds and then they will earn on those stocks and bonds. The amendment I have offered says, look, do everything you are claiming to do here but don't reduce the amount of money going into the trust fund from the railroads and don't increase benefits until you have invested the $15 billion, and until you have earned a rate of return on it. And then when you are dealing with the interest and not the principal, you can do whatever you want to do.

What this bill does is take the money out of Government bonds and allow it to be invested, $15 billion of it; then as that money earns interest, you could lower the amount the railroads are paying in, you could lower the retirement age, you could increase benefits, but only to the degree you were doing it with the interest you are earning. You could not spend off the trust fund, thereby putting the taxpayer at greater risk.

I know if anyone defends the proposal, they will say, look, the trust fund does not go broke under the bill. In fact, I guess they would concede it goes down in value under the expected economic scenario by three-fourths. But there is still enough money to pay the benefits. That is only part of the story. The rest of the story is, the only reason there is enough money to pay benefits at this point under the bill is that it is assumed by them that the tax on the railroads to pay for the retirement benefits has risen from 13.1 percent to 22.1 percent.

Does anybody believe the railroads are capable of paying 22.1 percent of the wages of all the railroad retirees into the railroad retirement trust fund? Are we not here today because the railroads say they cannot pay 16.1 percent? The whole logic, when you strip away the window dressing, is they want to lower the amount they are putting into the trust fund from 16.1 to 13.1 percent, to try to help the railroads. They have worked out an agreement to get the unions to support it by saying, in essence, $7.5 billion goes to the railroads and giving $7.5 billion to the union members. But the net result is the trust fund is $15 billion poorer 17 years from today than it is now. Even though you are earning a higher rate of return, because you are taking out huge amounts, you are depleting the trust fund.

All I am trying to do with this amendment is say invest the money and every penny you earn belongs to the railroads and the unions. Forget about the taxpayer. But don't take the principal out, just take the earnings.

Frankly, if this were some kind of reasonable debate, you might say let's take these higher earnings; part should go to the taxpayer because the taxpayer is paying a substantial amount of these benefits, part should go to the railroads, and part should go to the retirees. But I am saying forget that; take the interest, but don't take the principal. That is the essence of the amendment.

I would like to submit the amendment. I hope my colleagues will accept it. I do not understand how it can be prudent public policy to set out a policy which, while claiming to get a higher rate of return, actually reduces the size of the trust fund available to pay benefits, between now and the year 2026, by 75 percent. How can that make sense? How can it be prudent public policy to set out a program which is salvaged only by the willingness of the railroads to pay to 22.1 percent of all wages into a trust fund, when today they claim they cannot afford to pay 16.1 percent? How can that possibly make any sense?

What I am saying is don't deplete the trust fund. But every penny you earn, by investing it, you can give to the railroads and you can give to the retirees. But maintain the assets to protect the taxpayers. That is the proposal. I think it is simple and easy to understand. For those who want investment, it gives you investment. For those who want a better rate of return potentially, it gives you a better rate of return. But what it does not let you do is pillage 75 percent of the trust fund over the next 25 years. That it does not let you do.

That is the essence of the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). The Senator from Montana.

Mr. BAUCUS. Mr. President, I have been listening carefully to my good friend from Texas, and a lot of what he says is accurate. But he does not, as they say, tell you the whole story. Ultimately, the question comes down to: Are there enough funds in tier 2, in the railroad retirement fund, to pay additional benefits to retirees and spouses and also to decrease the amount of taxes the railroads are now paying? Admittedly, it is a very high rate. That is the question. And can that be done in a fiscally sound manner?

Today the railroad retirement trust fund balance is growing very dramatically. Under current law, the trust fund will have balances this year of about six times the cost of benefits. Through about the year 2020, the ratio never sinks below six. At that point, the year 2020, it continues to decline forever. By the end of 75 years, the balances in the trust fund will equal an unbelievable 53 times the cost of 1 year's benefits.

So the question is, Why all this increase in balances? Isn't there something prudent that can be done about this very large increase in balances? Because under the actuarial estimates it just continues to grow and grow.

And how much of the balance is really necessary? In Social Security, the actuary considers the system to be in actuarial balance in any year the balances of the Social Security trust fund are equal to at least one time the amount of benefits that are paid out in a year. That is Social Security's standards. The actuaries have determined there is at least a 1-to-1 ratio of balances in the Social Security trust fund compared to the costs in that year that have to be paid out. Clearly, today it is much more than one, but the standard, the actuaries say, is 1 to 1. It is not six times or three times, but one.

Today, on the railroad retirement trust fund tier 2, there is a real need, frankly, to do something about the balances in a way that seems reasonable and prudent. There are some changes that should be made. One is the retirement age. Some industries are a lot more hazardous and dangerous than some others. Railroading is certainly more hazardous and more dangerous than some other industries. The retirement age today in the railroad industry under current law is 62 years. It is only fair that it be reduced to 60 years. In many industries across the Nation, the retirement age is lower than that. It can be 55, and for a hazardous industry such as railroads it makes sense that the retirement age be 60.

In addition, vesting does not have to be a full 10 years as it is today. In many industries, vesting is less than that. It is 5 years.

For survivor benefits, today when a railroader retires, he and his wife will receive 145 percent of wages. If he dies, the widow gets 50 percent. If he were single, it would be 100 percent. So the thought is to at least raise the widow's. If she survives her husband, raise her benefits to 100 percent. It seems to me that the railroader himself would get 100 percent if he retired and is single. It just makes sense.

The current taxes that the company pays are too high. They are much higher than taxes paid in the private arena, and they are higher than what a company would pay in its pension program for its employees.

The idea is to lower the taxes and increase the benefits in a way that is reasonable and prudent so we don't have that huge balance accumulating in the railroad trust fund. I think it is done in a very sound and fair way.

The ultimate question really is, Is the balance of money in the trust fund large enough to accommodate these changes? In the legislation before us, which includes the changes I have indicated, the balances in the trust fund in any year are at least one and two-thirds times greater than the amount needed to pay benefits in that year. That is a higher standard by two-thirds than the standard currently for Social Security. By the end of the 75-year period under this bill, the balances are about 12 times the cost of paying benefits in any 1 year.

Look at the chart of the Senator from Texas. He has that red portion. It continually falls off until about the year 2023. In 2026, his chart stops. It doesn't keep going. If his chart were to keep going, it would have the effect of this chart behind me to my right. It falls down to the levels indicated on the chart of the Senator from Texas, but then it starts right up again at a very high rate.

The low level which is of concern to the Senator from Texas rightfully should be addressed. It is a level which is one and two-thirds times higher than the actuarial balance that the chief actuary at Social Security says must be maintained.

There are provisions in the bill—the Senator from Texas is correct, and the railroad industry agrees and thinks this is just fine—which say if the funds are not what we assume them to be, then the railroader's and employer's taxes begin to rise. But the Senator from Texas says when that happens, and if it happens, Congress is going to just come right in and bail out the railroad industry.

We have not done that, historically. The last five times this Congress generally addressed the question of the financial viability of the railroads and/or the retirement system, in 1974, in 1981, in 1983, and in 1987, Congress did not bail out the railroads. Congress either decreased benefits or raised employer taxes. We encourage the railroad to solve these problems themselves. We have never ''bailed out'' the railroad industry.

Further, this legislation before us has lots of built-in sort of requirements of independent audits, of reports, and looking far ahead as possible to try to anticipate if there is going to be a problem of some kind or another.

Specifically, the legislation before us requires the trust fund to have an independent, qualified public accountant to audit the trust. The trust fund then must submit a report to Congress which includes a report based on the audit. The report supplied to Congress must contain financial statements of operations and cashflow.

Moreover, two financial reports required in current law would continue. The chief actuary for the Railroad Retirement Board must also do a major update of actuarial evaluations every 4 years but with annual updates every year by the chief actuary of the Railroad Retirement Board. The Railroad Retirement Board will report annually to the Congress and to the President as to the state of the system. Every year we will get updates.

The lines on the chart of the Senator from Texas as well as these are the intermediate assumptions; that is, there is a pessimistic assumption, there is an intermediate assumption, and there is an optimistic assumption. These are the intermediate assumptions on both of these charts.

What basically drives these assumptions? What is the biggest unknown that we have to look at?

It is essentially the level of employment in the railroad industry. When the level of employment in the railroad industry declines significantly, obviously, as is in the case of Social Security, there are fewer people paying into the trust fund compared with the number of people drawing benefits from the trust fund.

This is an industry which is almost the opposite of Social Security. For Social Security, there are about three workers for every one person paying in. In this industry, it is about one to three. It is a mature industry. It is not a young industry. It is an industry with fewer employees and more retirees.

The question is, How many more fewer employees will there be to accommodate the number of retirees?

I would like you to look at this chart behind me. It indicates that we need not worry about a cut in the number of employees. That is because of increased productivity and increased efficiencies in the railroad industry. It really can't get much lower per ton mile or per railroad mile traveled.

This chart shows the railroad crew size and productivity. As you can see, in about the years 1950 to 1964, the average crew size was five. In the years roughly 1960 to 1978, the crew size was four, and on down to about 1998, the average crew size is two.

You can't get much lower than two for a crew on a train. There is always going to be at least two. We are not going to have fewer employees. We will probably have more trains, which means more employees, but we are not going to have fewer employees per train.

Meanwhile, the revenue per ton mile and per employee, as you can tell by the chart, is increasing at a very high rate. We have more revenue for ton miles per employee. That is going to help the solvency of the trust fund. At the same time there are not going to be any fewer employees than there are today.

The basic point is, Is this the responsible way to solve the problem of explosive trust fund balances? I submit yes. One, the actuaries will maintain a balance that is proper. There will be annual reports galore.

I urge Senators to resist this amendment. It is unnecessary. It is wrong. It means the balances will stay forever. The benefits will not be greater. The burden on taxes will not be lower in due time.

If this amendment is agreed to, despite being wrong on its merits, it is going to probably mean no railroad bill this session, and maybe next year, because we will have to go to conference on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me be brief. When all the people came to see me about 6 months ago—actually, almost a year ago, in relation to this bill—I sat down to listen to them, having spent about 3 years working on Social Security.

Let me give you my response, based on something I think everybody can understand. Today we are really worried about Social Security because we have 3.3 workers per retiree. We are going to two workers per retiree. We are very concerned about our ability to pay Social Security benefits.

I have done a great deal of work and written a fair amount of material and articles explaining how investing Social Security surpluses in interest-earning real assets will cause the trust fund in Social Security to grow and will enhance our ability to pay benefits.

But I have never suggested that investing the Social Security surplus could allow us to lower the retirement age in Social Security from 65 to 60. In fact, under current law, it is rising from 65 to 67 even at this moment. I have never suggested that before any money is invested that we could cut Social Security taxes. Someone would laugh in your face if you suggested that.

Now, into my office walk representatives of the railroads and unions, and they say: Look, we have a program which has one worker for every three retirees, not the other way around, which it is with Social Security. This retirement program is in much worse shape than Social Security. We want to invest our trust fund, and we are going to cut the retirement age, reduce the amount of time you have to work to get benefits, increase benefits, and reduce the amount that the railroads are putting into the program through two different payments they are making.

First of all, if, in your retirement, somebody told you they could spend 75 percent of your trust fund, give you more benefits, and you could pay less in, I do not think you would believe it. Well, you should not believe it because it is not true.

My colleague points out my chart ends in 2026. Why? Because in 2026 the payroll tax, which the railroads are saying have to be reduced for them to be able to operate—they have to be reduced from 16.1 percent down to 13.1 percent—by the time we get to 2026, the payroll tax is up not to 16.1 percent but 22.1 percent. Does anybody believe that the railroads can or will pay 22.1 percent of payroll into this retirement program? Nobody believes they can or will.

Everybody understands that 20 years from now we are going to hear this knock on our door. We are not going to be here, but somebody is going to be here, and the railroads are going to say: My God, this retirement program is in terrible trouble, and under law our payroll tax is getting ready to jump from 13.1 percent to 22.1 percent. We cannot pay these taxes. At that point whatever these charts show is not relevant because everybody knows the railroads cannot pay that amount into this program and operate viably in the American economy.

So what is going to happen? You have spent four-fifths of the trust fund or let the railroads spend four-fifths of the trust fund. You have a payroll tax of 22.1 percent. What is going to happen? They are going to say they can't pay it and they are going to ask the Federal Government to intervene.

When you are talking about what good shape this trust fund is in, what is being called solvency here is having enough money to pay benefits for 4 years. There is no private retirement program under ERISA that would not be shut down if it had assets that would only pay for 4 years.

My amendment is not what I would call a stingy amendment. My amendment says, OK, take this trust fund, and we are going to give you $15 billion right out of the Treasury. You can invest it on behalf of the retirees. And then you can spend every penny that you earn on that $15 billion. You can lower the amount railroads are putting into the system. You can give new benefits, but you cannot spend the principal. That is all my amendment does.

If we do not adopt an amendment similar to this, I want to predict, even though I do not think any of us will be here 20 years from now—I certainly will not—that 20 years from now this retirement program is going to be on its back, the railroads are going to be being pulled down economically by having a 22.1-percent payroll tax, and we are going to have a transportation crisis in America.

I do not know if anybody will ever look back at what we are doing here, but they should. Because what we have done, underneath all else, is that while we are doing some things that make sense—letting them invest the trust fund makes sense—we are literally letting them take $15 billion, we are letting the railroads pocket $7.5 billion, we are letting them give $7.5 billion in gifts to their retirees and workers, and we are setting up a situation where there is going to be a train wreck, and the taxpayers are going to be forced to pick up the pieces.

Senator NICKLES and I have no constituency. That is obvious. This thing has been sold. All the railroads have come to Republicans and said: This is great; it will be great for railroads. The unions have come to the Democrats and said: This will be great for the workers. And the bottom line is, nobody cares, apparently, about the taxpayer or about the future of this retirement program.

So we are on the verge of cutting this, taking 75 percent of the money out of this trust fund and giving it away, committing ourselves to the railroads, having to pay a tax that we know they are not capable of paying, that we know cannot be paid. How are railroads going to put 22.1 percent of every dollar they pay to every worker into this trust fund 20 years from now when they cannot put 16.1 percent in today? They are not going to be able to do it.

So all my amendment says is, let them invest it and do whatever they want to do with the interest, but do not let them spend the principal. What that will mean is, the trust fund will basically stay at its current level. They can reduce the amount railroads are paying in. They can increase benefits. Neither of those actions, in my opinion, is fiscally responsible, but they cannot simply pillage the trust fund for $15 billion over 17 years, which is exactly what happens under this proposal—and every set of figures used by every person in this debate all come from the railroad retirement board. All of them show that the trust fund, over the next 20 years, is depleted, under the expected economic projections, by 75 percent. That cannot be good public policy.

I understand that Senator NICKLES has an amendment. What I would like to do is yield the floor. If there is any more debate on this amendment, there can be, and I would be happy to have the amendment set aside. Senator NICKLES can offer his amendment, and then it can be debated. And then we could have the vote on the two amendments and sort of see where we are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2175 TO AMENDMENT NO. 2170

(Purpose: To use a 5-year average rather than a 10-year average on capturing the average account benefits ratio)

Mr. NICKLES. Mr. President, I ask unanimous consent the pending amendment be laid aside and I call up amendment No. 2175.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2175 to amendment No. 2170:

On page 40, line 1, strike "10 most" and insert "5 most".

Mr. NICKLES. Mr. President, I compliment Senator GRAMM for reading the bill and trying to do something to protect the integrity of the trust fund.

He has said, No. 1, if we are going to give them $15 billion, let's make sure we don't spend down the principal. And, No. 2, let's only spend the interest or the dividends from that trust fund to provide new benefits. I support him in that. I compliment him for that.

I also have an amendment that wants to protect the integrity of the trust fund. The trust fund, by any of the scenarios—I will show the charts in just a minute—the trust funds goes way too low. The bill's stated objective is to keep the trust fund equal to but somewhere between four and six times the annual payment to beneficiaries. That is their goal. That is their objective. Unfortunately, the bill before us, under the middle assumption, doesn't even come close to that.

As a matter of fact, the trust fund goes all the way down to about 1.3 annual payments. In other words, it almost goes bankrupt. It barely has enough to make 1 year's payments of benefits. That is not a good deal for taxpayers, and it is certainly not a good deal for railroad retirees. I don't think it is a good deal for the railroad companies because they are going to be socked with a very large tax increase.

I will use the chart Senator BAUCUS has. I think it illustrates it. We start out with about 6 years of benefits under today's standard, but when we pass this bill, in a period of about 20 years, we go down to just a little over 1 year's balance. In other words, we take a fund—and I will insert this in the RECORD. Actually, I will insert for all three assumptions.

Under the assumption I will talk about, the employment assumption No. 2, the one in the middle, we start with a balance this year of $19.3 billion. And under current law, that goes to $34 billion.

Under the bill we are getting ready to pass—and I can count votes; frankly, I could count votes before this week started—that trust fund balance goes from $19 to $8.4 billion. Instead of being $34 billion, it goes to $8.4 billion. That is the bill we are getting ready to pass.

I wish I could wake up all my colleagues, most of whom have not read this bill, most of whom had nothing to do with drafting the bill. This is the first time I can recall in my 21 years in the Senate that we have had a bill that was totally written by special interest groups. In this case, railroad unions and management got together and said: Here is our bill, don't touch it. Don't have a hearing on it.

They didn't have a hearing in the House. We didn't have a hearing in the Senate. I asked for a hearing in the Senate Finance Committee. We did not get it. We had a markup but it was already railroaded. There were not going to be any amendments. There was one amendment adopted in the House or the Senate. That was the amendment dealing with scoring. We are not going to count it. It didn't say we will waive the Budget Act. It said will not count it, which I think is even worse than just waiving the Budget Act. Why have a Budget Act if you are going to have $15.3 billion in budget outlays and it doesn't count?

We just had a vote on that by Chairman DOMENICI and ranking member CONRAD, and we lost. We lost that vote. So the special interest groups are together. And they said: Let's leave it in. They didn't request that amendment. It is interesting; that was put in by the House. So that was the only amendment they put in.

It was a bad amendment in my opinion. We are going to accept that, and we are going to keep the bill. We will not touch it. I think we are making a mistake.

You ask: Why are you still fighting this? You know this bill is going to pass? Sure, I do. But I want to make a statement. I want to show that we can do a better job. We are not beholden to the special interest groups. We are beholden to taxpayers. This is a Federal statute. We are changing Federal law. How many CEOs of the railroad companies or how many union members were elected to the Senate? I don't know, but they wrote the law. They wrote the bill that is going to become law.

I don't think they did a very good job. If I thought they did a good job, maybe I would cosponsor the bill. I don't think they did a good job. History will tell.

I will make a prediction. I am not going to be here in 20 years. I guess if I was as studious and healthy as Senator THURMOND, maybe I could be. If I was fortunate enough to be reelected by the people of Oklahoma, maybe I could be. Agewise it is possible, but it is not possible after consulting with my spouse. But 20 years from now, if not well before that, Congress is going to have to readdress this issue because we are going to have a big problem.

As this chart shows—I am borrowing Senator BAUCUS's chart, and I thank him—we are going from 6 years of benefits down to a little over 1, we think. That is in 20-some years.

Then Senator BAUCUS said: Wait a minute. Way out in the outyears, it goes way up. Who knows? I know they are going to have problems when we get into the year 2021, 2022, 2023, 2024, 2025 and 2026. It goes way down. The trust fund actually falls by 65 percent. When you have that trigger, payroll taxes have to go way up. Payroll taxes have to go up by 69 percent.

That is because in the bill we say if it triggers at a certain point, we are going to have a tax increase, a tax increase that is paid by the railroad companies. And it goes from 13.1 percent to 22.1 percent.

Senator GRAMM said they are having problems. They have shrunk their labor force significantly. They are not going to be able to handle that kind of increase. They will come back to Congress and say: Here, it is yours. The trust fund is broke. It didn't work out very well, so pay our employees. And because the Railroad Retirement Act is a Federal statute, it becomes an entitlement.

Many people here say it is not that. No, they won't be coming back to us.

I predict that within 20 years they will be coming back to Congress and saying: We need a fix. We need a little bump. We need a little transfusion. Maybe the transfusion will be from Social Security. They are already getting it. I wonder how many of our colleagues know that they get billions of dollars from Social Security, basically from tier 1 going into tier 2, to pay their benefits. It is in the bill. I have an amendment that will address that. Possibly we will consider that soon.

Right now I offer an amendment that I urge my colleagues to look at, consider, and hopefully pass. The triggering mechanism to have a tax increase is if the trust fund goes so low that there will be a tax increase. If you actually get low enough to pay benefits for 4 years, you have a tax increase. It is automatic. It is in the bill. It would become law soon. OK. That makes sense. But you ought to have some kind of triggering mechanism so if we keep the trust fund balanced, we won't be coming to the taxpayers for general revenues.

What is wrong is the calculation. You look back over 10 years to figure that average. By looking over 10 years, if you just see the revenue estimates, they estimate that the trust fund balance goes from a high, somewhere in the neighborhood, under present law, of about $27 billion. Under the Daschle bill or the railroad bill we are getting ready to pass, the railroad trust fund runs about $23 billion. Then the next several years it falls to 19, 18, 17, 16, 13, 12, 10, 8. You are looking at a 10-year average. If you look at a 10-year average and you are averaging 8 and averaging 20, maybe it won't trigger the tax increase until about the year 2021, 2022, 2023. In other words, it allows the fund to fall from about 6 years' payments down to a little over 1 before the tax increase is triggered.

That is too late. That doesn't allow the trust fund to have enough time to recharge, to build, to have a cushion to earn interest or to earn dividends. In other words, we allow this dip to go too low.

The effect of my amendment would be to smooth that out. Possibly it would smooth out the payroll tax increase. In other words, instead of looking back over 10, we would look over 5. So your average, once you got on the decline, it would say, if we get much lower, we will have to have a tax increase sooner to keep that fund from going so low. That is too big of a dip. That is too dangerous for railroad employees or retirees to have the fund balance dip down as low as 1.3 annual payments.

This is under the middle scenario. If you look under the pessimistic scenario, it goes in the red. Under the pessimistic scenario, the whole trust fund goes totally in the red by the year 2022. It will not be able to make payments. It will need either general revenue funds or it will have to cancel increases or suspend payments or whatever.

In other words, there is a scenario here where the fund is totally broke in 20 years. That is not acceptable. I don't think it is acceptable. I think we should protect railroad retirees. We have too much of a variable by using a 10-year average before you have a trigger for a tax increase. So my suggestion is, let's make it over a 5-year average. If you get on a down slope, the trust fund starts falling in value, we won't have to wait another 8 years before you trigger a tax increase.

That is the essence of my amendment. It is a friendly amendment. It is not an amendment to gut the bill. It is not an amendment to say we don't want railroad retirement and we are not going to have railroad retirement. It is an amendment that says they put together a deal that was negotiated between labor and the employees or the unions. They may have cut a good deal for the employers, basically saying let the fund go almost bankrupt before you trigger a tax increase.

We will do that in 20 years. Guess what. Everybody running those companies will all be retired by then, and Members of Congress will all be gone by then. Let somebody else worry about that. So these big tax increases are not triggered—it is interesting, they are not triggered until 15 years from now, but then they are pretty big. It is not a 10-percent increase in payroll taxes, not a 20-percent increase; they keep the tax rate basically at 13.1 percent for about the next 15 years and, bingo, you go from 13.1 percent to 22.1. That is a 69-percent increase in payroll taxes.

I just can imagine—as a matter of fact, I will make this prediction: When this happens 15, 20 years from now, somebody is going to come back—the railroad companies will say: We can't afford that. That will bankrupt us. They will basically say: Taxpayers, you handle it or liquidate the railroad so they can pay these benefits.

You are in that kind of scenario. That will happen. That is too Draconian of an increase because we allowed the trust fund to get too low before we triggered the changes. I say, let's trigger the tax increase. Instead of over a 10-year average, do it over a 5-year average. That makes a lot more sense. We are not holding these funds to fiduciary standards. I have an amendment to do that. We don't hold them to fiduciary standards that we do all other multiemployer plans. Maybe we should.

I have told some of my colleagues who have been voting and saying they want to take up the bill, all right, we are on the bill. I want to consider the bill. They say let's consider amendments. Well, this is an amendment. This is an amendment that would help the security of the trust fund, make sure it doesn't get down too low. We would have the automatic trigger moved up a little bit. That is the essence of the amendment. Instead of letting the fund dip down quite so low—before it goes down too low, below the threshold of four times annual payments, we would trigger the tax increase a little earlier so it doesn't go down quite so low. That is the essence of the amendment.

We want to save the trust funds so the funds will be there to make the payments and not bankrupt the railroads at the same time. Now, maybe if, in the interest in this bill, the railroad companies and the unions would have come before Congress and said, yes, let's have a hearing on this bill, I could have asked them questions. My guess is the railroad unions would say, yes, I like that idea. They would probably say I like that idea because we don't want to jeopardize our payments. If somebody is retired at age 60, and they happen to be age 80 and they are reading the reports, they would say, the trust fund went down to almost bankrupt. They can barely make payments this year. They are not going to get a lot of comfort over that. So the idea is, let's try to make greater protection of the trust fund.

Mr. President, I want to have printed in the RECORD a table that I have compiled, my staff, of the three various employment assumptions, 1, 2, and 3.

I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RAIDING THE RAILROAD RETIREMENT TRUST FUND

[Daschle amendment 'versus' current law (in millions of dollars)]

Year	Railroad Retirement Trust Fund balance employment assumption 1				Railroad Retirement Trust Fund balance employment assumption 2				Railroad Retirement Trust Fund balance employment assumption 3			
	Current law	Daschle	Change	Percent change	Current law	Daschle	Difference	Percent change	Current law	Daschle	Difference	Percent change
2001	19,383	19,383	....	....	19,363	19,363	....	....	19,341	19,341	....	....
2002	20,412	20,504	92	....	20,339	20,431	92	....	20,254	20,347	93	....
2003	21,484	21,351	(133)	−1	21,332	21,194	(138)	−1	21,135	21,014	(121)	−1
2004	22,594	22,027	(567)	−3	22,304	21,756	(548)	−2	21,973	21,446	(527)	−2
2005	23,745	22,698	(1,047)	−4	23,285	22,273	(1,012)	−4	22,763	21,790	(973)	−4
2006	24,750	23,170	(1,580)	−6	24,075	22,549	(1,526)	−6	23,312	21,846	(1,466)	−6
2007	25,951	23,753	(2,198)	−8	25,011	22,887	(2,124)	−8	23,954	21,913	(2,041)	−9
2008	27,176	24,263	(2,913)	−11	25,915	23,100	(2,815)	−11	24,506	21,799	(2,707)	−11
2009	28,417	24,710	(3,707)	−13	26,777	23,191	(3,586)	−13	24,954	21,501	(3,453)	−14
2010	29,657	25,096	(4,561)	−15	27,574	23,158	(4,416)	−16	25,271	21,011	(4,260)	−17
2011	30,724	25,213	(5,511)	−18	28,129	22,784	(5,345)	−19	25,273	20,107	(5,166)	−20
2012	31,983	25,430	(6,553)	−20	28,800	22,432	(6,368)	−22	25,314	19,145	(6,169)	−24
2013	33,257	25,567	(7,690)	−23	29,404	21,916	(7,488)	−25	25,205	17,930	(7,275)	−29
2014	34,550	25,626	(8,924)	−26	29,939	21,228	(8,711)	−29	24,940	16,448	(8,492)	−34
2015	35,868	25,613	(10,255)	−29	30,406	20,366	(10,040)	−33	24,509	14,688	(9,821)	−40
2016	37,016	25,337	(11,679)	−32	30,601	19,130	(11,471)	−37	23,707	12,441	(11,266)	−48
2017	38,423	25,224	(13,199)	−34	30,945	17,935	(13,010)	−42	22,943	10,237	(12,706)	−55
2018	39,916	25,103	(14,813)	−37	31,259	16,600	(14,659)	−47	22,034	7,769	(14,265)	−65
2019	41,524	24,998	(16,526)	−40	31,562	15,136	(16,426)	−52	20,990	5,166	(15,824)	−75
2020	43,278	24,933	(18,345)	−42	31,876	13,723	(18,153)	−57	19,823	2,691	(17,132)	−86
2021	45,014	24,734	(20,280)	−45	32,027	12,023	(20,004)	−62	18,353	309	(18,044)	−98
2022	47,142	24,808	(22,334)	−47	32,420	10,604	(21,816)	−67	16,977	(2,060)	(19,037)	−112
2023	49,512	24,983	(24,529)	−50	32,890	9,660	(23,230)	−71	15,529	(4,599)	(20,128)	−130
2024	52,149	25,268	(26,881)	−52	33,455	8,704	(24,751)	−74	14,021	(7,316)	(21,337)	−152
2025	55,079	25,687	(29,392)	−53	34,132	8,495	(25,637)	−75	12,461	(10,206)	(22,667)	−182

Source: Railroad Retirement Trust Fund actuaries. Provided by Senator Don Nickles, 12/4/01.

Mr. NICKLES. This compares present law to this bill, under those assumptions. Present law under the employment assumption, the middle assumption, shows in current law a trust fund balance of $19.3 billion today and $34 billion in the year 2025. Under the Daschle amendment, or the bill we have before us, we start at $19.3 billion, and in 25 years we end at $8.5 billion. In other words, the trust fund is only about—well, it is 75 percent below where it is today, or where it would be under current law. That is assuming a 21-percent payroll tax in the last few years. So even with enormous payroll tax increases, the fund is still in serious jeopardy of being able to pay benefits, being able to provide security and assurances that there is going to be money there for retirees who maybe worked most of their lives and depend on it.

I have put this in the RECORD because I want people to see it. I want railroad management companies to look at these scenarios and realize, OK, we are trading current law for this. This may be a great deal for them for the intermediate time. People may say: Why are you doing this? Railroad companies will save a few hundred million dollars a year—over 10 years, $4 billion; over 15, 17 years, $17.5 billion. Their taxes are going to be cut. I will put that into the RECORD. Their taxes are going to be cut over $400 million and that gets larger every year. That is what the companies get by reducing the payroll tax from present law, $16.1 billion, to 13.1 percent, and then it eliminates another supplemental benefit tax that boils down to, I think, 26 cents an hour. They eliminate both of those taxes and save about $400 million a year—''they'' being maybe a dozen railroad companies. They save $400 million a year.

What do the employees get? The employees get a pretty good deal. They get a deal because they have tier 1 benefits that are supposed to be equal to Social Security; they pay the same tax. The Social Security tax is equal to 6.2 percent for employees, 6.2 percent for the employer. They pay the identical tax, same tax as everybody else in America. But they don't get the same benefit. Under Social Security benefits, people receive their full retirement benefits at age 65, which is going to age 67. Under railroad retirement, they get to receive 100 percent benefit now at 62. This bill makes that 60. They pay the same tax with more benefit. You get zero if you retire at age 60 under Social Security. If you retire at 62 under Social Security, you get 80 percent of the benefit you were expected to receive at age 65. That 80 percent is being reduced under current law to 70 percent over the next several years. So under Social Security, a person who retires at 62, many years from now, gets 70 percent; and under railroad retirement, they get 100 percent benefit at age 60—and they pay the same taxes. There is a big difference there.

What about the survivor benefit? That is a great big benefit increase for railroad retirees. It costs money. How much does it cost? Guess what. It costs about $4 billion a year over the next 10 years. They also have another little benefit: tier 2 benefits, non-Social Security benefits, the other railroad retirement benefits, a survivor benefit equal to 100 percent of what the employee was receiving. That is pretty nice because in most private pension systems the survivor receives 50 percent. I wish they could pay that much and more. Who is going to have to pay the bill? What are those benefits? They add up to $4 billion over the next 10 years. That is about $400 million per year in a couple of years. So it totals about $4 billion over the next 10 years. It just happens to come out even that the railroad companies and employees come out with the same amount of benefit. That is what they mutually agreed upon. Well, what they didn't do, in my opinion, they didn't protect the fund. The fund goes almost bankrupt before this triggering mechanism to make sure the fund stays solvent is kicked in. That is not to get too technical, but they have a 10-year lookback average before, and if that average gets below 4 years' annual payments, then they have an automatic tax increase. That waits too long and allows the fund to go down to 1.3 annual payments before the tax is really kicked in—maybe it is kicked in in the last couple years, but it doesn't catch up.

So the fund is in jeopardy. The payments are in jeopardy. The whole concept of paying railroad retirement is in serious jeopardy because we didn't do a good enough job, when we created this change, to make sure it would be solvent. So I have an amendment—really a simple amendment—that says instead of looking back over 10 years, look back over 5 years. I think it is a reasonable amendment, one that if the railroad employees could look at, they would support in a minute, absolutely, totally, completely. It is a good provision to try to make sure there will be a trust fund there instead of allowing it to dip so low.

I urge my colleagues to support the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, basically, this amendment offered by the Senator from Oklahoma is just unnecessary. In fact, he used my chart. My chart makes a case that is much worse than would occur under the bill.

I am just trying to present the facts so people can make a reasonable judgment. I looked at the balance on a year-by-year basis. That is what that chart shows. Under the bill before us, there is a 10-year rolling average lookback which means that lower level on the chart would never get that low under the bill. The Senator from Oklahoma wants to change it from 10 to 5. Even 5 will not get that low.

The main point is that many people have looked at this issue from different directions and have concluded that this legislation is a good way to deal with the excess balance in the railroad retirement trust fund. By increasing some benefits, by lowering taxes, and yet building in some automatic auditing devices, that comports with requiring the actuary to report whether the trust fund is actuarially sound in the current year and succeeding years under various economic assumptions.

I do not know how much better we can do than that. It is very difficult to predict the future. I remind my colleagues that CBO, in trying to make 10-year estimates, let alone the 20 years we are talking about here, has varied its 10-year totals by $1 trillion over a 6-month period of time. It is because economic assumptions change so quickly, so often.

We are in a more uncertain world than we were, say, 10, 15, 20, 30, 40 years ago. The actuaries have done the best they can with what they have. They made three different projections. One is pessimistic, one is intermediate, one is optimistic. The assumption we have been talking about is the intermediate. It is not the pessimistic, not the optimistic; it is the intermediate.

I submit that with the annual reports from the actuaries coming to the Congress, we will know whether we are getting into trouble or not.

This is the best solution we could come up with at this time, and it is done on a fair, reasonable basis.

Taking a more pessimistic analysis than provided by the analysis of the Senator from Oklahoma, the worst case is about the year 2020, 2022, and that is when the ratio is 1 to two-thirds, balance to costs. The Social Security actuary says we can get as low as 1 to 1. We are not 1 to 1 today in Social Security. The Social Security actuary says that is the lowest benchmark with which he deals.

Under our intermediate assumptions, we do not get that low. We get 1 to two-thirds, 1 to 1. I suggest we are even too pessimistic.

I asked the question of the chief actuary how the economic estimates have been on employment levels, which is the most difficult estimate to make. His response is: Employment levels over the last 5 years—railroad employment—have decreased an average of .9 percent per year. He said this decrease is better than assumption 1. Assumption 1 is the most optimistic assumption. He says for the last 5 years, the actual decrease in employment was .9 percent per year, which is better than provided for in assumption 1. We are talking about the intermediate, not assumption 1.

He also says employment levels over the last 10 years have decreased an average of 1.8 percent which falls somewhere in between assumption 1 and assumption 2.

We have been a little too conservative actually. The main point is, who knows what the world is going to be like in the year 2020? The Senator from Oklahoma takes the most pessimistic assumption and says we cannot have that. My Lord, if we are in that bad a shape in 18, 19 years, I can tell my colleagues we are going to be doing a lot of other things in this body in addition to railroad retirement. I have confidence in the Congress, in the system. We analyzed this thoroughly. We will do well.

Mr. NICKLES. Will the Senator yield for a question?

Mr. BAUCUS. In just a second. I also say this measure before us has 73 cosponsors. It was considered last year in September in the Finance Committee. We had 20 amendments in the Finance Committee. It passed by a very large margin in the House.

In sum, this amendment is unnecessary, and it is also mischievous because if it were to be adopted, this bill would have to go to conference. There would be no railroad retirement bill this session, and there could be no railroad retirement bill this Congress.

I urge Members not to agree to this amendment.

Mr. NICKLES. Will the Senator yield for a question?

Mr. BAUCUS. Yes.

Mr. NICKLES. The Senator said I took the most pessimistic assumption. I correct him. All my statements and the charts are on the middle assumption, not the most pessimistic assumption. The most pessimistic assumption says this bill has real problems. I did not use that. I used the middle assumption.

Mr. BAUCUS. I stand corrected. Mr. President, most of his analysis was on the intermediate assumption. At one point, he was talking about the most pessimistic assumption. My response was to both.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I do not want to inflate anything. I am very particular on being factual. I want to correct a mistake I made in my earliest debate. This came up, frankly, when those of us who had some concerns about the legislation were informed of it on Monday and we were to debate it on Tuesday. I cited from memory that this fund had actually paid out more every year than it had taken in, to the tune of about $90 billion. That was not factually correct.

The facts are the fund has paid out more than it has taken in every year since 1957. For the last 43 years, it has actually received payroll taxes, contributions from employees, and it has made benefit payments. The benefit payments have exceeded payroll taxes and company contributions every year for the last 43 years, so I was correct from 1957 on. I wanted to state that, and I will insert that in the RECORD as well.

I want to be factually correct. I want my colleagues to understand that when I state that 20 years from now there is going to be a big problem if we do not do something because we are getting ready to set up a system that allows this fund to almost go bankrupt, almost to where they cannot pay the benefits before we let the tax increase trigger.

Some people have said: This is self-funding. This is great. We are going to keep these fund balances between four and six times annual payments for the next 75 years. If the trust fund balances go up, they make good investments, they invest in a lot of stocks that did exceptionally well, great; they can have payroll tax cuts.

If they do poorly, if they get below that four, we will have automatic payroll tax increases on the employer, not the employee. Fine, if that works.

Under the middle assumption, the tax increases are not triggered until well after the fund is depleted because they use a 10-year average. So they are on a sliding-down scale before the tax increases trigger, so the fund almost goes bankrupt. It goes down to about 1.3 annual payments before they have the tax increases, and then they are in serious trouble.

Somebody said this is the law; this does not allow general fund financing, which is one of the reasons I happened to be concerned about it. Somebody asks: Why are you so concerned? Ultimately the Federal Government could be liable. You say: Why? Let me read a couple statements.

I like to think the railroad companies would take care of their employees, and if they did, I couldn't care less what benefits they pay. If this were out of the Federal system, they could pay whatever benefits they want. I do not care if they have retirement at age 40 if they pay for it and the Federal Government is not liable for it. I do not care if they have early retirement.

I do not care if they have a spouse benefit that exceeds 100 percent if they pay for it.

What I disagree with strongly is if they greatly increase benefits and underfund the system and then say: If this does not work out, taxpayers, you pick up the cost. Why should we be asking people in Minnesota or Oklahoma who make $40,000 a year or $20,000 a year to increase their taxes to pay benefits for people who make a lot more money than they do and enable them to retire at age 60 when people in Oklahoma do not get to retire until they are 65 or 67 and then they receive benefits far greater than people in Oklahoma receive? I do not want the people of Oklahoma to have to pay taxes for them to do that.

I will read a couple quotes. Supporters insist the amendment places responsibility on future benefits on the railroads in the event investments do not work out.

I will read what the railroad industry thinks of its responsibility. This is a quote from the United Transportation newsletter dated May of 2000:

> The legislation also requires that the railroads would be responsible if the trust fund falls below a certain level. If this happens, a tax would automatically be placed solely on the carriers in order to replenish the fund. In order to add a final assurance to the integrity of the fund, it is still bound by the full faith and credit of the United States Government. They would be required to pay the obligations of the fund if, for some reason, the other safety nets in place were insufficient.

Earlier this year, the Lincoln Journal Star—on 8/15 of this year—stated:

> Other unions and the Association of American Railroads are promoting the bill as a self-financed shoo-in. In fact, the U.S. government would still back the retirement fund, acknowledged Obie O'Bannon, vice president of legislative affairs for the association. But, he pointed out, the ''automatic tax ratchet'' would require the railroads to kick in more money any time the fund's balance is below four times annual benefits, so that's protection that would mean all U.S. railroads would face insolvency before the Federal liability applies.

I don't want the railroad to go insolvent, but I don't want the Federal liability to apply either. I don't want our taxpayers across the country to have to bail this system out because we did a crummy job of legislating in 2001, and in 20 years we say: Well, we made a mistake. Darn, Senators GRAMM and NICKLES were right. Now the railroad companies are faced with a huge tax increase they cannot pay.

The fund is raising towards insolvency. Taxpayers, would you please give a supplemental. Let us raid a little more from Social Security—which they do under this bill, as well. There is about a $2 billion transfer from Social Security to help pay tier 2 benefits. That is interesting. I thought we would protect Social Security. But we have a Social Security bailout for the bill. Maybe we will address that shortly.

How else do we fix the fund? Are we going to write a check? Is the Federal Government going to write the check? I don't know. Some people in the unions say that is what we will do. Some in management say that is what we will do. I don't think that is the solution.

Let me read the last sentence of the vice president of legislative affairs for the Association of American Railroads:

> All railroads would face insolvency before the federal liability applies.

I don't want the railroads to become insolvent, nor do I want the Federal taxpayers to become liable for all the generous benefits. These benefits, in comparison to retirement benefits in the private sector, are very generous—overly generous. Find other private pension systems that offer full retirement at age 60. You won't find very many. Find other pension systems that offer spousal benefits or survivor benefits at 100 percent. You won't find very many. I doubt the department stores offer these kinds of benefits. Manufacturing companies don't offer these benefits. Yet we are getting ready to do it.

Now I read that if it doesn't work out, taxpayers ''will bail us out.''

I won't be in the Senate, or I doubt I will be in the Senate, 20 years from now, but if I am, I guarantee I will be opposing a taxpayer bailout of this industry. And conversely, I hope there will be others opposing this. This will happen. It is a prediction. It will be in the CONGRESSIONAL RECORD.

I hope I am wrong. I hope they find investments that do enormously well. They might find good investments such as Intel, 10 years ago, going up in multiples. They might also find investments such as Enron. I am concerned. Everybody indicated this is not so bad.

I have not raised this on the general issue of debate. This investing in private funds is a good idea. I love for private individuals investing for themselves to buy parts of different companies. I am reluctant to think: What will this board invest in? Mr. President, $15 or $16 billion is a lot of money. What companies will they buy? Are they going to be politically correct? Would they buy Microsoft? Our Government was suing Microsoft. I guess they still have suits pending against Microsoft. Maybe that is not politically correct. What about tobacco? Our Government in the previous administration was going after tobacco. Philip Morris was a good investment the last year. Microsoft was a good investment the last year. Would they be buying utility companies? A lot of utility companies are being sued for a lot of different reasons. Do they have to wash their hands from investments?

I have concerns when you have a board comprised of rail management representatives, union representatives, and they select one additional person they mutually agree upon to invest billions and billions. I have reservations about that. That is not what I raised this issue on.

For the information of colleagues, we will vote on the Gramm amendment and the Nickles amendment starting around 4:30. For the information of our colleagues, we will have the joint prayer service, which we desperately need, starting at 5 o'clock. The amendment I am offering says, before we allow the trust funds to be depleted on such a steep decline, if a 5-year average gets below 4 years, annual payments trigger the tax increases at that time instead of using the 10-year average. That would keep this a lot more shallow. It will keep the fund probably well above 2 or 3 in the annual balance statement, certainly above 2—not allowed to dip down so deep. That is for the protection of the railroad retirees and for the protection of taxpayers, to make sure we will not have to do what the United Transportation Newsletter said: We can always fall back on the full faith and credit of the U.S. Government.

I hope that doesn't happen. I will work energetically to see it doesn't happen. If we keep the trust balance more level, it will not happen.

I urge my colleagues to support the amendment that would say, instead of having a 10-year lookback before you trigger an automatic tax increase, do it over 5 years so we don't allow the trust fund balances to go as low as they are now projected to by the railroads' own actuaries of the pension plan.

I yield the floor.

Mr. BAUCUS. Mr. President, I don't see any other Senators wishing to speak, and the leadership would like to schedule these votes around 4:30, so we have 15 more minutes. I will take that time to make a couple of points.

First, this amendment offered by the Senator from Oklahoma simply is unnecessary. It is true that there is a dip. The fact is, on a yearly basis the dip is as represented on that chart, but the bill before the Senate will not be as low as represented on the chart. Even if it is as low as represented on the chart, this is unnecessary.

It is true that there is a question in the year 2021. There are a lot of questions. We have to do the best we can with what we have. The vast majority of Senators and House Members have considered and concluded that this is a fair way to deal with this issue. This issue, if it arises, will not arise, according to the basis of this debate, for another 20 years. So we are talking about what may or may not occur in 20 years. Because of the annual reports provided in the bill and the actuarial estimates on an annual basis, when it gets closer to 20 years from now, we will have an idea whether or not this is working. If it is not working, we will make adjustments. This amendment is totally unnecessary.

A couple of other points. The Senator mentioned there is a lot of Social Security money going into railroad retirement. I will address that. It is a point that is not commonly understood. In America today, clearly, there is a wide variety of industries. Some are new young industries, service industries; some are older, mature industries, such as railroad or mining industries. Industries come and go. They expand. They are just different, which means they have different ratios of the number of employees paying into Social Security compared with retirees receiving Social Security in that industry.

Social Security, of course, doesn't collect and pay on an industry basis. It collects and pays on a national basis. It is a large pool of Americans, American workers paying into Social Security, and there are a large number of retirees in America receiving benefits.

So as a practical matter, if we look at an industry, say a mature industry where there are fewer employees paying into a Social Security trust fund, and a lot of retirees receiving benefits, in effect there is a transfer of Social Security to that industry away from a younger industry where there are so many more employees paying in and so many fewer retirees receiving benefits. In effect, that is what happens today in America under Social Security. That is what is happening today in railroad retirement under tier 1, which is essentially Social Security. Because it is a mature industry and because there are fewer employees—railroaders in the industry, compared with the number of retirees proportionate to the average industry in America—there are transfers in effect to railroad retirees under tier 1 as is the case for all industries and for all workers in America today. There is no difference. There is no difference.

So it sounds as if Social Security is helping out unfairly, enriching railroad retirees under tier 1. It just is not because the Social Security tier 1 employees are treated the same way as are employees in a mature industry receiving benefits.

The second point is it has been suggested here that it is not fair to lower the retirement age to 60 from 62. After all, the retirement age under Social Security is higher. It has been suggested that it is not fair to vest earlier, 5 years instead of 10 years; that it is not fair that survivor's benefits for a survivor would be 100 percent instead of, say, 45 percent. And the point is made under Social Security retirees' survivors get benefits at a later age. So isn't this some special deal that railroad retirees are getting? It is not fair.

On the face of it that is a question. But, as they say, that is only half of the story. In the rest of the story, the facts are that tier 2 in railroad retirement is very comparable to a private pension plan that a company may have for its employees. The company's employees—retirees, say—would receive benefits under Social Security, tier 1 in the railroad system, and they receive benefits under their pension plan, tier 2 in the railroad industry. Many pension plans provide for an earlier retirement age—not 65 or up to 67, as required in Social Security, but at an earlier age.

Those people pay Social Security. Those are Social Security retirees. How does all that work out? What is happening here?

It is very simple. In the private sector pension plans participate in what is called a bridge with Social Security; that is, under Social Security the retirement age is 65, but under the private pension plan if you fully vest—say 30 years employment at, say, 60—the private pension plan makes up the amount that Social Security does not pay. It is called a bridge. That is how it works and it makes sense. If Social Security does not provide those benefits for early retirement age, then the private pension plan provides the benefits. That is what is happening in this legislation. It is just the same.

That is, tier 2 would provide the extra benefits under a bridge to tier 1, in effect. Actually, they don't provide it in tier 1. It is just that the extra benefits go to the retiree to make up the difference.

I submit, railroading is pretty hazardous. It is a dangerous industry. And a 62 retirement age—excuse me, a 60 retirement age after 30 years of hard work as a railroader certainly seems fair to me. There are other industries not as dangerous or demanding, but this one certainly is. It is a dangerous industry.

It has been suggested that ERISA provisions ought to apply. Railroad pensions should be fully funded, and this is not fully funded—as is the case under ERISA, which is what applies to most private pension plans.

First of all, Social Security is not fully funded. Maybe it should be. We would like to work in that direction, but it is not today. But more important, to fully fund the railroad retirement plan would require the injection of $40 billion. Then it could be fully funded. We do not have $40 billion. I think the total revenue of the railroad system in America is about $40 billion per year, and I think the income per year is close to $4 billion in the railroad industry.

Still more to the point, this trust fund, tier 2, would have about $40 billion today, an extra $40 billion, if Congress in the past had lived up to its word. It would have it. What am I saying?

Many years ago, Congress—I think it was in 1950—passed something called dual benefits. The effect of it is that railroad retirees got dual benefits. They got twice the benefits.

Clearly, that got to be a lot of money for the trust fund. If they get double benefits for Social Security compared with other retirement systems, that adds up pretty quickly. Congress decided to change that, in 1974—to end that. Congress said we are going to end this dual benefits idea. It is just too expensive. It is just too much.

But we, Congress, will grandfather in prior retirees so they do not get less than they thought they were going to get. So as a practical matter, that would have been—those benefits paid prior to 1974 would have been about $3.5 billion. If the railroad retirement system had that $3.5 billion—they did not get it, Congress did not give it to them—today that would be worth about $30 billion, $40 billion.

If Congress had lived up to its word in the past, we could come close to having enough dollars in the fund to make it fully funded and ERISA applicable. But ERISA cannot be applicable today because it is $40 billion short because Congress didn't live up to its word. Nevertheless, I think the provisions in this bill requiring all these reports assure us of notice, adequately in advance, whether or not there is going to be a problem during the next 20 years. It could be just the opposite. It could be a lot better than we expect. But if it is worse than we expect, there will be more than enough benefits for Congress to be able to change it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will ask unanimous consent to have printed in the RECORD the ''Railroad Retirement and Survivors Improvement Act of 2001 Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II.''

It basically says let's transfer $1.586 billion in from Social Security, or the tier 1 fund, into the tier 2 fund. Social Security is subsidizing tier 2 benefits.

I also state to my colleagues, a real solution would be if tier 1 is supposed to be equivalent to Social Security, and people want that—and then as Senator BAUCUS says, tier 2, if they want to subsidize Social Security for a lower retirement, they can do that—let's just put them under Social Security so we do not intermingle these funds. There is a little raiding going on. Under this bill, there is about $2 billion, then, $80-some million almost every year, and then it increases to almost $100 million every year that is transferred from tier 1 to tier 2.

I do not like it. We are raiding the Social Security fund.

I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3–II.—RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001

[Progress of the Railroad Retirement and Social Security Equivalent Benefit Accounts under Employment Assumption II (dollar amounts in millions)]

Calendar year	Interest rate (percent)	Tier 2 tax rate (percent)	Railroad Retirement Account					Social Security Equivalent Benefit Account						Railroad Retirement Trust Fund			Combined balance end year
			Benefits and administration	Tax income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefits and administration	Tax income	Interest income	Other inc/exp	Transfer to RRTF	Balance, end year	Benefit payments	Income	Balance end year	
2001	5	21.0	$3,127	$2,870	$1,056	....	$17,913	5,265	2,225	$77	$2,653	....	$1,450	....	....	....	$19,363
2002	8	20.5	57	2,816	....	$20,673	....	5,335	2,254	73	3,145	$1,586	....	$3,371	$23,802	$20,431	20,431
2003	8	19.1	59	2,682	....	2,623	....	5,395	2,279	17	3,181	82	....	3,554	4,317	21,194	21,194
2004	8	18.0	62	2,582	....	2,521	....	5,489	2,307	18	3,247	83	....	3,706	4,267	21,756	21,756
2005	8	18.0	64	2,621	....	2,557	....	5,611	2,337	18	3,341	85	....	3,830	4,348	22,273	22,273
2006	8	18.0	67	2,661	(84)	2,510	....	5,735	2,367	17	3,351	....	....	3,971	4,247	22,549	22,549
2007	8	18.0	69	2,703	89	2,722	....	5,854	2,395	19	3,440	....	....	4,144	4,483	22,887	22,887
2008	8	18.0	72	2,746	2	2,676	....	5,991	2,423	19	3,637	89	....	4,334	4,547	23,100	23,100
2009	8	18.0	75	2,789	....	2,714	....	6,160	2,453	20	3,781	93	....	4,511	4,602	23,191	23,191
2010	8	18.0	78	2,833	....	2,755	....	6,353	2,485	20	3,944	96	....	4,682	4,649	23,158	23,158
2011	8	18.0	81	2,879	(90)	2,708	....	6,555	2,517	20	4,019	....	....	4,864	4,490	22,784	22,784
2012	8	18.0	84	2,926	97	2,939	....	6,769	2,551	22	4,201	5	....	5,052	4,700	22,432	22,432
2013	8	18.0	88	2,975	....	2,888	....	6,997	2,588	22	4,492	106	....	5,232	4,716	21,916	21,916
2014	8	18.0	91	3,026	....	2,934	....	7,235	2,626	23	4,695	109	....	5,408	4,721	21,228	21,228
2015	8	18.0	95	3,078	....	2,983	....	7,477	2,667	24	4,899	113	....	5,576	4,713	20,366	20,366
2016	8	18.0	99	3,131	(84)	2,948	....	7,725	2,711	23	4,990	....	....	5,721	4,485	19,130	19,130
2017	8	18.0	103	3,184	91	3,173	....	7,971	2,759	25	5,216	30	....	5,842	4,647	17,935	17,935
2018	8	18.0	107	3,240	....	3,133	....	8,205	2,810	26	5,493	124	....	5,940	4,605	16,600	16,600
2019	8	18.0	111	3,297	....	3,186	....	8,424	2,865	27	5,660	127	....	6,017	4,553	15,136	15,136
2020	8	19.0	115	3,516	....	3,401	....	8,621	2,922	27	5,802	130	....	6,074	4,661	13,723	13,723
2021	8	19.0	120	3,579	(58)	3,401	....	8,797	2,982	27	5,788	....	....	6,111	4,411	12,023	12,023
2022	8	20.0	123	3,811	63	3,751	....	8,951	3,045	29	5,951	72	....	6,132	4,713	10,605	10,604
2023	8	23.0	123	4,393	....	4,270	....	9,087	3,108	29	6,087	137	....	6,151	5,206	9,660	9,660
2024	8	23.0	123	4,473	....	4,350	....	9,207	3,173	29	6,144	139	....	6,170	5,215	8,704	8,704
2025	8	27.0	124	5,268	....	5,145	....	9,323	3,239	30	6,195	141	....	6,176	5,967	8,495	8,495

Source: Railroad Retirement Board actuaries, 12/3/01.

Mr. NICKLES. Mr. President, we can solve that by putting all railroad employees, like we put all new Federal employees, under Social Security. We did it. We put Members of Congress under Social Security. To me, it would help this problem so we would get away from this little financial wiggling that has been going on with this fund for a long time.

Also, I ask unanimous consent to have printed in the RECORD a table that I have that shows the benefits for employees and the benefits for railroad companies, or management, on a year-to-year basis. I alluded to this in my statement, but I wanted to have the facts with these charts substantiating my oral comments.

There being no objection, the material ordered to be printed in the RECORD, as follows:

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Reduction in Retirement Age	37	121	192	228	259	305	359	397	420	443	2,761
Expansion of Widow/er Benefits	83	92	94	95	97	100	102	104	106	108	981
Repeal of RRR Benefit Ceiling	11	14	15	16	18	19	20	22	24	26	185
Reduction in Vesting Requirements	*	*	*	*	*	1	1	1	1	2	6
New Benefits for Labor	131	227	301	339	374	425	482	524	551	579	3,933
Adjustment in Tier II Tax Rate	(59)	(198)	(329)	(362)	(366)	(374)	(379)	(383)	(384)	(386)	(3,220)
Repeal of Supplemental Annuity Tax	(59)	(79)	(81)	(79)	(77)	(76)	(75)	(75)	(74)	(74)	(749)
Tax Cuts for Management	(118)	(277)	(410)	(441)	(443)	(450)	(454)	(458)	(458)	(460)	(3,969)

RAILROAD RETIREMENT: H.R. 1140 AS PASSED BY THE HOUSE—Continued

[In millions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Stock Market Investment of Trust Funds	15,320	(460)	(660)	(830)	(920)	(990)	(1,060)	(1,140)	(1,250)	(1,340)	6,670
Change in Deficit/Surplus	(15,569)	(44)	(51)	50	103	115	125	159	242	302	(14,568)

Source: CBO: Provided by Senator Don Nickles, 11/26/01.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be 4 minutes for debate prior to the vote in relation to the Gramm amendment No. 2196; that regardless of the outcome of the vote, there be 4 minutes of debate prior to the vote in relation to the Nickles amendment No. 2175 with the time equally divided and controlled in the usual form, and that no second-degree amendments be in order to either amendment nor the language that may be stricken.

Mr. REID. Mr. President, reserving the right to object, I wonder if Senator NICKLES will also agree that we have 1 minute on each rather than 4 minutes. The Senator wants 4?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendments the Senate gave consent to earlier be reversed so the first vote will be on the Nickles amendment No. 2175 and the second vote will be on the Gramm amendment No. 2196.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. NICKLES. Mr. President, this amendment is to help protect the solvency of the trust fund. As the chart shows, the trust fund falls under the middle scenario. The trust fund falls from about 6 years' of payments. There is enough money in the trust fund to pay 6 years' worth of benefits. Under that scenario, if we pass this bill, which we are going to do, it goes down to about 1.3. I keep hearing 1.6. I believe it is 1.3—barely enough to pay 1 years' benefit. That is because we use a 10-year average looking back. The fund has to fall so far before the tax increase is triggered.

Under this amendment, we strike the 10 years and say let us make it 5. As the fund balance starts to fall under the railroad retirement assumption, it falls all the way down to $8 billion. We pay $8 billion in benefits right now.

I am saying, let us not let it go quite that low. Let us look back over 5 because if it starts falling, that fund gets below the 4 years' payments—enough to pay for 4 years' worth of benefits—if it gets below that, let us have the tax increase triggered then. Not 10 years, it will be 5 years out.

That will keep the fund solvent for railroad retirees. It will decrease the pressure on the railroad companies later on. It also gives some protection to taxpayers. It will decrease the likelihood that there will be a bailout or a necessity for a bailout to be falling on general revenues or general taxpayers in the year—whether it is 2015, 2017, or 2021, I do not know. Let us not let the fund go all the way down to almost 1 year's payment before we trigger a tax increase. Let us do it a little bit earlier. Let us use the 5-year average instead of the 10-year average.

I used to do this work. Anybody who talks to their actuary will say that makes a lot of sense. Waiting for a 10-year average would be absurd.

I yield the floor.

Mr. BAUCUS. Mr. President, this amendment is, first, totally unnecessary. The actuaries project that the balance of the fund without this bill over 75 years will be at least one and one-thirds above the benefits paid. That is the lowest level; that is, about the year 2002, which is significantly more than the short-term actuarial balance necessary for Social Security. One and two-thirds; one for Social Security.

This amendment is totally unnecessary. It is, second, a killer amendment. If this amendment is agreed to, we will go to conference. There are not many days left in the session. There will be no railroad retirement bill passed this year and probably not in this Congress. It is unnecessary and I particularly urge Members to oppose it.

The underlying bill requires many audit reports, financial and actuarial reports on a yearly basis on the strength, viability, and the health of this trust fund. We will have plenty of time and many years in advance to see whether or not some of the dire predictions made in this Chamber are accurate.

We have a hard time knowing 10-year budgets in the budget process around here. We are talking about 20 years down the road. A, it is not necessary; B, a lot of reports, if the dire predictions do come true; and, C, it is a killer amendment.

I urge colleagues to oppose this amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER (Mr. REED). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 72, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—27

Allard	Frist	McConnell
Bennett	Gramm	Nickles
Bond	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Helms	Smith (NH)
Campbell	Kyl	Thomas
Cochran	Lott	Thompson
Ensign	Lugar	Thurmond
Fitzgerald	McCain	Voinovich

NAYS—72

Akaka	Dodd	Lieberman
Allen	Domenici	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Miller
Biden	Edwards	Murkowski
Bingaman	Enzi	Murray
Boxer	Feingold	Nelson (FL)
Breaux	Feinstein	Nelson (NE)
Brownback	Graham	Reed
Byrd	Hagel	Reid
Cantwell	Harkin	Roberts
Carnahan	Hatch	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Hutchinson	Schumer
Cleland	Inhofe	Shelby
Clinton	Inouye	Smith (OR)
Collins	Jeffords	Snowe
Conrad	Johnson	Specter
Corzine	Kennedy	Stabenow
Craig	Kerry	Stevens
Crapo	Kohl	Torricelli
Daschle	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	Wyden

NOT VOTING—1

Hutchison

The amendment (No. 2175) was rejected.

Mr. KERRY. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2196

The PRESIDING OFFICER. Under the previous order, there are 4 minutes evenly divided with respect to the Gramm amendment.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, this is an amendment offered by the Senator from Texas, Mr. GRAMM. I strongly urge Members to not vote for it. It is unnecessary. There are actuarial reports required in this bill to the Congress, and financials are required annually. We will know well in advance of any potential problem that may occur in 20 years. This is a killer amendment. If it passes, we have to go to conference. That means no bill this year. I urge Members not to support this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, the amendment is very simple. The amendment before us says you can invest the railroad retirement trust fund, you can invest it in stocks and bonds, but you cannot spend out of it until you have earned something on the investment.

Under the bill before us, you lower the amount of money going into the fund and you raise benefits before one penny is earned, before one investment is made, and in fact you take money out so quickly that you deplete 75 percent of the trust fund before the tax on railroads has to rise from 13.1 percent to over 22 percent in order to maintain absolute minimum solvency.

The amendment before us simply says invest the money, earn income on the money, use the income to lower taxes to fund railroad retirement and to increase benefits, but don't spend the trust fund's money, spend the earnings on the money. It is an eminently reasonable amendment. It is in no way a gutting amendment. If we could have gone to committee with a bill, I believe this would have been the solution. I understand my colleagues are for the bill, but I think this is a prudent way of doing it. Make the investments, do it exactly as the bill would do it, but don't spend the principal, spend the earnings. Don't do the things the bill calls for until you have the money in hand.

I think that is a simple principle. The people understand it. I would appreciate if they would vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 21, nays 78, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—21

Allard	Fitzgerald	Lugar
Bond	Frist	McCain
Bunning	Gramm	McConnell
Burns	Gregg	Nickles
Campbell	Helms	Smith (NH)
Cochran	Kyl	Thomas
Ensign	Lott	Thompson

NAYS—78

Akaka	Bayh	Bingaman
Allen	Bennett	Boxer
Baucus	Biden	Breaux
Brownback	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Grassley	Nelson (NE)
Carnahan	Hagel	Reed
Carper	Harkin	Reid
Chafee	Hatch	Roberts
Cleland	Hollings	Rockefeller
Clinton	Hutchinson	Santorum
Collins	Inhofe	Sarbanes
Conrad	Inouye	Schumer
Corzine	Jeffords	Sessions
Craig	Johnson	Shelby
Crapo	Kennedy	Smith (OR)
Daschle	Kerry	Snowe
Dayton	Kohl	Specter
DeWine	Landrieu	Stabenow
Dodd	Leahy	Stevens
Domenici	Levin	Thurmond
Dorgan	Lieberman	Torricelli
Durbin	Lincoln	Voinovich
Edwards	Mikulski	Warner
Enzi	Miller	Wellstone
Feingold	Murkowski	Wyden

NOT VOTING—1

Hutchison

The amendment was rejected.

Mr. FITZGERALD. Mr. President, I would like to bring attention to one particular segment of the railroad industry—commuter rail. As a Senator from Illinois, I have had the opportunity to become very acquainted with the excellent commuter rail system that serves Chicago and northeastern Illinois. This system—Metra—is the second largest commuter rail system in the country and is a key part of the overall, growing, commuter rail industry. Metra employs between 2,500 and 3,000 workers, nearly all of whom are covered under the Railroad Retirement Board benefit plan.

The extent of commuter rail's growth over recent decades is made clear by looking at the number of workers that it employs. Nationally, roughly one-quarter of all rail employees work for commuter and passenger rail, and it is expected that this number will grow substantially in the future.

For these reasons, I believe commuter rail, because of its growing size, importance, and impact, should be represented on the Railroad Retirement Board of Trustees that is created by this bill. As this bill moves forward in the legislative process, I hope that I will be able to work with the chairman and ranking member of the Senate Finance Committee and other conferees to ensure that commuter rail is represented on the Board of Trustees.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Railroad Retirement and Survivors' Improvement Act of 2001. Finally, Congress is going to consider this important bill. I have been working to improve the benefits for our retired railroad workers for many years. Today, we can finally say that promises made are promises kept to our rail workers and their families.

The people who have made their contribution to family and to society by working on our Nation's railroads deserve a decent retirement. I know the job that railroad employees perform is very hard, very important work. Our country has an obligation to help those who have worked hard, saved, and played by the rules. That is why I am proud to have been a sponsor of Railroad Retirement Improvement legislation for many years and am proud to be a supporter of this bill.

I have been fighting to improve the benefits for railroad workers and their families since I was first elected to Congress. The retirement age for railroad workers and their spouses to qualify for railroad retirement benefits should be lowered. It is difficult for people and families to plan for their retirement in today's world, even with two salaries. That is why strengthening retirement benefits for all Americans has always been one of my highest priorities.

This bill is bipartisan. The House passed their version of this important bill by an overwhelming vote of 384–33. Seventy-four of my colleagues are cosponsors of the Senate version of the Railroad Retirement and Survivors' Improvement Act of 2001. The support for this measure is clear, and the time to act is now.

The Railroad Retirement and Survivor's Improvement Act expands benefits for the widows of rail employees and lowers the minimum retirement age at which employees with 30 years of experience are eligible for full retirement benefits to 60 years old. This legislation also reduces the number of years required to be fully vested for tier II benefits and expands the system's investment authority by creating an independent, non-governmental Railroad Retirement Trust Fund.

I urge all my colleagues to join me in standing up for our railroad retirees and their families and support this very important bill.

Mr. REID. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DAY OF RECONCILIATION

Mr. REID. Senator BROWNBACK and Senator AKAKA have asked me to make this announcement. They have worked very hard on a piece of legislation which is now law, setting forth today as a National Day of Reconciliation. Members of the House of Representatives and the Senate are encouraged to attend. The meeting is taking place in the Rotunda of the Capitol as we speak. It just started. During assembly, Members of both Houses gather to seek the blessings of Providence for forgiveness, reconciliation, unity, and charity for all of the people of the United States, thereby assisting the Nation to realize its potential as a champion of hope, a vindicator of the